Mr. Kottur Kunjukrishna Pillai : May I know Sir, how all this is relevant at the third reading of the Bill?

President : Before passing the Bill, the honourable member apparently wants certain general considerations to be borne in mind That, I think is the idea of the honourable member.

Mr. P. N. Krishna Pillai : That is exactly my idea.

Another point which I want to stress is this. This should not be the last of a series of labor Bills. It should be followed by other Bills which are of urgent necessity in this country like Payment of Wages Act which have come into force in British India. While pointing out that there is urgent necessity for other labour legislation and that those measures should be administered effectively to the benefit of the people, I have great pleasure in congratulating the honourable members of this House in passing this Bill.

The question that the Bill be passed was put and carried.

THE TRAVANCORE MARKETS REGULATION AMENDMENT BILL.

Mr. Puthupalli S. Krishna Pillai : Sir, I beg to move that the Travancore Markets Regulation Amendment Bill* as passed by the Assembly be taken up for consideration.

Mr. P. Paramesvaran Pillai : I second it.

The motion was put and carried.

Clause 1.

The question that clause 1 do form part of the Bill was put and carried.

The clause was added to the Bill.

Mr. James Fletcher : Sir, I beg to move that from the new sub-section 3 of Section 28 of the Regulation the words "or by the Division Peishkar" be deleted. Sub-section (3) of section 28 reads now as follows :

"There shall be no appeal from the decision or order passed in appeal by the Land Revenue and Income Tax Commissioner or by the Division Peishkar." According to the Amendment, the appellate authority will be the Land Revenue and Income Tax Commissioner ordinarily and I would suggest that the words "or by the Division Peishkar" be deleted so that there may be only one appellate authority so far as orders regarding the Markets Regulation are concerned. This provision is necessitated by Section 27 of the Regulation which reads as follows:

"Our Government, may, by notification in our Government Gazette authorise any officer by name or by virtue of his office to exercise all or any of the powers conferred on a Division Peishkar

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*Vide Annexure IV.

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[Mr. James Fletcher.]

under this Regulation." So this Special Officer or any officer authorised by the Government will have all the powers of a Division Peishkar and it is also suggested that the orders of such special officer is appealable and it lies to the Division Peishkar. My contention is that when there are two officers having the same power, one officer cannot be said to be an appellate officer over the other. So the appellate powers of the Division Peishkar should be done away with and the Land Revenue and Income Tax Commissioner should be made the appellate authority. Therefore the provision may be modified to that effect so that the Division Peishkar may not have any authority as an appellate court. In such a case the words "or by the Division Peishkar" can be deleted under sub section (3) of Section 28. There is a provision for revision against the order of the Land Revenue and Income Tax Commissioner to the Government. That is a proper thing and I have no objection to it. I am concerned only with the appellate power of the Division Peishkar and those words conferring appellate powers to Division Peishkars should be deleted. Even now, practically, there is no appeal to the Division Peishkar. Therefore the provision for an appeal before the Division Peishkar is unnecessary and the words "or by the Division Peishkar" be deleted.

Mr. M. Govindan: Sir, I second the amendment. It is clear from Section 27 that all the powers of the Division Peishkar may be given to the person who is authorised by Government. So that means that he exercises exactly the same powers as the Division Peishkar. I do not know how it is that the Division Peishkar gets the appellate power. Section 27 read along with Section 28 would show that this sub section has to go.

Mr. Puthupalli S. Krishna Pillai: I oppose the amendment. The honourable the mover's intention is to do away with the provision relating to the appeal against the orders of the Tahsildars now existing under Section 28. Section 27 and 28 should be read together. The statute under Section 27 authorises Government to confer on the Tahsildar all the powers of the Division Peishkar in proper cases and I may be permitted to state for the information of the House that so far no such power has been conferred on any Tahsildar. Any way I shall speak on the merits of the amendment. Section 28 says "(1) An appeal shall lie to the Dewan from any order of a Division Peishkar passed under this Regulation. (2) Our Government may direct that an appeal from the order of any officer empowered under Section 27 shall lie to the Division Peishkar provided however that there shall be no appeal to the Dewan from the order of a Division Peishkar passed on appeal. Under the existing provision, Government are empowered to

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authorise any officer by name or by virtue of his office to exercise all or any of the powers conferred on a Division Peishkar under this Regulation. It is a delegation of the power of the Division Peishkar that is contemplated to be conferred by Government upon any officer under the foregoing provision. Section 28 provides that an appeal shall lie to the Dewan from any order of the Division Peishkar and the proviso says that there shall be no appeal to the Dewan from the order of the Division Peishkar. That is the existing provision. It provides that there shall not be a second appeal against the order passed by the Regulation. The proposed amendment repeats the existing provision in respect of this matter. "There shall be no second appeal against the order passed in appeal against any order of an officer empowered under Section 27." Suppose both the amendments of the honorable member are carried. The second amendment is that the words Division Peishkar shall be deleted from the new clause. Then where is the provision enabling an appeal to be preferred against an order passed by an officer who is empowered to act under Section 27? If these amendments are accepted it will leave the people without a remedy. In cases where officers authorised under Section 27 passing orders under the Markets Regulation, should there not be a provision for an appeal? If this amendment is accepted it will really be a retrograde step. I am very much against this idea that the parties should not be heard in appeal. The officer so appointed should not be invested with final authority to dispose of summarily all cases. There must be a provision for appeal against their decisions.

Mr. M. Govindan: Is there not a provision for appeal to the Revenue Commissioner?

Mr. Puthupally S. Krishna Pillai: It is not provided in Section 28 or under the proposed clause. I am speaking on the amendment proposed by the honourable member. The honourable member says that the words Division Peishkar may be deleted in Sub-section 2. Then where is the provision authorising an appeal against his orders to be preferred? There must be a power to hear the appeal. The amendment that was adopted by the Assembly is that in Sub-section 1 for the word 'Dewan' the words 'Land Revenue and Income Tax Commissioner' be substituted. Let us substitute that, *i. e.*, "The appeal shall lie with the Land Revenue and Income Tax Commissioner against the orders of the Division Peishkar."

Mr. James Fletcher: Sir, I shall explain that position. The original court for appeal is the Division Peishkar. But all

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[Mr. James Fletcher.]

appeals under the Markets Regulation should be heard by the Land Revenue Commissioner and the Government should have the power to revise his decision.

Mr. Puthupally S. Krishna Pillai: Sir, can the honourable member speak when I am in possession of the House?

President: Why did the honourable member resume his seat.

Mr. Puthupally S. Krishna Pillai: Sir, I thought he was going to put a question.

President: No, he began by saying that he was offering an explanation. The honourable member must be more alert on what is passing in the House.

Mr. Puthupally S. Krishna Pillai: Is it enough if Sub-section 2 of Section 28 is deleted? What about Section 27?

Mr. Kochikal P. Balakrishnan Tampi: May I know whether appeals shall not lie to the Land Revenue and Income Tax Commissioner?

Mr. Puthupally S. Krishna Pillai: No Sir. The statutory provision must be clear in regard to that. It is only the orders of a Division Peishkar that are applicable to this clause.

Mr. Kochikal P. Balakrishnan Tampi: May I know that the officer mentioned in Section 27 could not be a Division Peishkar for the purpose of this provision?

Mr. Puthupally S. Krishna Pillai: Then it must be so stated, because Section 27 says "Our Government can authorise any person and appeal shall lie to the Dewan against any order of the Dewan Peishkar." Suppose powers are conferred on a Tahsildar then can we say that he has to be treated as a Division Peishkar in order that any appeal may be heard by the Dewan or the Land Revenue and Income Tax Commissioner? If so this statute must specifically say so. Any way the amendments as they stand cannot be accepted. I may state also that in all these matters power is reserved with the Dewan to revise any order passed by any officer under the Markets Regulation.

Mr. James Fletcher: Sir, according to the Legal Remembrancer's suggestion the Division Peishkar has become the appellate authority under Section 27. As I have stated already, the Division Peishkar cannot be made an appellate authority especially when the order is passed by an officer who has got all the powers conferred on the Division Peishkar. One Officer having all the powers conferred on the Division Peishkar passes an order. Can another Officer with the same powers become the appellate authority? Is it reasonable and proper? Naturally we expect that the officers who possess the appellate authority to be superior to the officers of

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the lower grade. Section 27 on the other hand says that a Division Peishkar shall hear an appeal against an order of an officer who can exercise all or any of the powers conferred on the Division Peishkar. So that is an anomaly which I would suggest should be removed.

Mr. Kottur Kunjukrishna Pillai: Sir, I appreciate the difficulties pointed out by my honourable friend Mr. James Fletcher. But I do not think that it is going to work substantially any hardship on the parties, because the appointment of a person other than a Division Peishkar to exercise the powers of a Division Peishkar is not ordinarily done. If such an officer is appointed it will be to the greater convenience of the parties if they can rectify matters by presenting appeals to a local officer, *viz.*, the Division Peishkar and they will not be forced to run up to the Land Revenue Commissioner in appeal. If both these authorities are not able to rectify the defects of the order then of course he has to approach the Government to revise the orders. Therefore in these exceptional cases there is no very great hardship in preferring appeals before Division Peishkars. If the amendment is carried it does not make the position clear and as explained by the Legal Remembrancer the special officer who is invested with the powers of a Division Peishkar if he passes an order that order will not be appealable. If the amendment before the House is carried the effect of it will be that the party will lose the right of appeal on an order passed by an officer invested with the powers of a Division Peishkar. For these reasons I cannot support the amendment.

The motion for the amendment was put to the vote of the House and lost.

Clause 2.

The question that Clause 2 do form part of the Bill was put and carried.

The Clause was added to the Bill.

Preamble.

The question that the preamble do form part of the Bill was put and carried.

The preamble was added to the Bill.

Title.

The question that the title do form part of the Bill was put and carried.

The title was added to the Bill.

Mr. Puthupally S. Krishna Pillai: I beg to move that the Travancore Markets Regulation Amendment Bill be passed.

Mr. P. Parameswaran Pillai: I second it.

The Bill was passed.

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